

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the day of , two thousand and fifteen,

H.W. and A.W., individually and on behalf of their
Son, M.W., a minor;

Plaintiffs-Appellees,

-against-

Manhasset Union Free School District,

Defendants-Appellants.

**STIPULATION AND
ORDER OF SETTLEMENT**

Docket No. 15-1405

WHEREAS, Plaintiffs-Appellees are the parents of M.W., a minor child with a disability, who is presently attending the School for Language and Communication Development ("SLCD"), located in Woodside, New York; and,

WHEREAS, the Plaintiffs and MW reside within the geographic boundaries of the Defendants-Appellants Manhasset Union Free School District, and as such, M.W. is entitled to a free appropriate public education ("FAPE") pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400 *et seq.*, at District expense; and

WHEREAS, Defendants brought this appeal seeking a reversal of a Memorandum and Order of the United States District Court for Eastern District of New York (Steven I. Locke, U.S.M.J.), entered on March 31, 2015, which granted plaintiff's tuition reimbursement for the cost of tuition at SLCD, a private school in which the parents unilaterally placed M.W. for the 2011-12 school year; and

WHEREAS, pursuant to the local Second Circuit Rules, the matter was randomly referred to the Civil Appeals Mediation Program (CAMP), and Mr. Paul Radvany, Esq., a Volunteer Circuit Mediator, was assigned.

WHEREAS, mediation sessions were held on June 11, 2015 and June 18, 2015 with Mr. Radvany and counsel for the respective parties during which time, the parties have come to a complete and full resolution of the matter without need for further proceedings, on terms and conditions that are just and fair to all parties; and

WHEREAS, during said mediation, the parties have resolved all outstanding issues, including the relief and tuition reimbursement sought by Plaintiffs, and counsel's fees, costs, expenses, and disbursements incurred in Plaintiffs' counsel's representation of Plaintiffs in this action, including in their representation of Plaintiffs in the underlying administrative, District Court and Second Circuit Court proceedings;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. Notwithstanding that Defendant believes it has provided a timely and appropriate Individualized Education Program ("IEP") recommending a FAPE for M.W. for the 2011-2012 school year, subject to Defendant's receipt of satisfactory proof of payment as noted in Paragraph 4, *infra*, Plaintiffs will be entitled to tuition reimbursement in the amount of Forty Six Thousand Four Hundred (\$46,400) Dollars, representing the tuition paid to SLCD during the 2011-2012 school year for M.W.'s program.
2. The Defendants shall pay Plaintiffs' counsel the sum of One Hundred and Eighty-

Seven Thousand (\$187,000.00) Dollars for all attorney's fees, costs, disbursements and expenses accrued in this action, including in the underlying administrative proceedings before the Impartial Hearing Officer Susan Mills Richmond, Esq. ("IHO"), the New York State Office of State Review ("SRO") (Dec. No. 12-195), and the proceeding brought by Plaintiffs in the United States District Court for Eastern District of New York (Steven I. Locke, U.S.M.J.) (CV 13-3873). Payment will be made by check payable to "Morritt, Hock & Hamroff, LLP, as attorney for Plaintiffs" within forty-five (45) days.

3. In consideration for the payment described in paragraphs "1" and "2" above, Plaintiffs and Plaintiffs' counsel agree to withdraw and dismiss with prejudice all claims for attorneys' fees, costs, disbursements, and expenses accrued in this appeal, in the District Court action and the underlying administrative proceedings, and/or pertaining to the 2010-2011 and the 2011-2012 school years, and agree to release and discharge Defendants, their successors or assigns, and all present or former officials, employees, representatives or agents of Defendant in their official or individual capacities from any and all liability, claims, and/or rights of action arising from or relating to any claims for tuition, M.W.'s IEPs, classification, extended school day, extended school year or compensatory services, transportation, private evaluations and/or private consultations, the provision of FAPE or special education, related services, or any issue related to M.W.'s educational placement for the 2010-2011 and 2011-2012 school years.
4. Plaintiffs and Plaintiffs' counsel shall execute and deliver to the Defendant's attorney

litigation or settlement negotiation, and the parties agree that they will not seek to enter this Stipulation and Order as evidence in any other litigation, except as may be necessary to enforce the terms thereof.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.
9. This Stipulation is final and binding on all Parties, as well as their successors and assigns.
10. The obligations contained in this Stipulation may only be modified by subsequent written agreement of the Parties.

Dated: **Garden City, New York**
July 6, 2015

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SO ORDERED: